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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,361	07/10/2000	Jay S. Walker	96-140-C1	9450
22927 7590 03/13/2009 WALKER DIGITAL MANAGEMENT, LLC 2 HIGH RIDGE PARK STAMFORD, CT 06905				
EXAMINER COLBERT, ELLA				
ART UNIT		PAPER NUMBER		
3696				
MAIL DATE		DELIVERY MODE		
03/13/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/613,361

Applicant(s)

WALKER ET AL.

Examiner

Ella Colbert

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. Claims 70-79 are pending and no claims have been amended or cancelled in this communication filed 10/10/08 entered as Response to Non-Final Action and Request For Extension of Time.
2. The amendment to the Specification file 10/10/08 has been considered and entered.
3. The claim objections of claims 70, 73,76, and 77-79 have been overcome by Applicants' convincing argument and are hereby withdrawn.
4. The Double Patenting Rejection for claims 70 and 73 are now considered moot in view of Applicants' amendment to Application 11/423,161.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 70-79 are rejected under 35 U.S.C. 102(a) as being anticipated by (US 5,870,718) Spector.

Claim 70. Spector discloses, A method comprising: generating, by a computer, a certificate identifier linked to an account identifier that is associated with a financial account, said certificate identifier being different from said account identifier (col. 4, lines 14-21); producing a gift certificate including thereon said certificate identifier (Fig. 2 (CS)

—shows this element), said gift certificate not including said account identifier (Fig. 2 (CS) —shows this element); and distributing said gift certificate to an owner of said financial account (col. 2, lines 20-28).

Claim 71. Spector discloses, The method of claim 70 wherein the financial account identifier cannot be discerned from the gift certificate identifier by a third party (col. 4, 14-23).

Claim 72. Spector does not expressly disclose, The method of claim 70, further including the steps of: receiving an indication of a gift certificate redemption; and updating stored account data to reflect the redemption. However, these steps would be inherent to receive some type of indication that the gift certificate has been redeemed and the stored account data would automatically be updated to reflect the amount of the redemption.

Claim 73. Spector discloses, A method comprising: generating, by a computer, a certificate identifier corresponding linked to an account identifier that is associated with a financial account, said certificate identifier being different from said account identifier (col. 4, lines 14-21); producing a gift certificate including thereon said certificate identifier (Fig. 2 (CS) —shows this element), said gift certificate not including said account identifier (Fig. 2 (CS) —shows this element), said gift certificate not including said account identifier; and distributing said gift certificate to a recipient (col. 2, lines 20-28 and (col. 3, lines 44-48).

Claim 74. Spector discloses, The method of claim 73 wherein the financial account identifier cannot be discerned from the gift certificate identifier by a third party (col. 4,

lines 14-23).

Claim 75. Spector did not expressly disclose, The method of claim 73, further including the steps of: receiving an indication of a gift certificate redemption; and updating stored account data to reflect the redemption. However, these steps would be inherent to receive some type of indication that the gift certificate has been redeemed and the stored account data would automatically be updated to reflect the amount of the redemption.

Claim 76. Spector discloses, A system comprising: computer (col. 3, lines 49-53) means for generating a certificate identifier linked to an account identifier that is associated with a financial account, said certificate identifier being different from said account identifier (col. 4, lines 14-21); means for producing a gift certificate including thereon said certificate identifier (Fig. 2 (CS)- shows this element), said gift certificate not including said account identifier (Fig. 2 (CS)- shows this element), and means for distributing said gift certificate to an owner of said financial account (col. 2, lines 20-28).

Claim 77. Spector discloses, means for distributing said gift certificate to a recipient (col. 3, lines 44-48). This independent claim is rejected for the similar rationale as given above for claim 73.

Claim 78. This independent claim is rejected for the similar rationale as given above for claims 70 and 76.

Claim 79. This independent claim is rejected for the similar rationale as given above for claims 73 and 77.

Response to Arguments

Applicants' arguments filed 10/10/08 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: There is absolutely no basis for the Examiner's assertion that Spector discloses "generating a certificate identifier linked to an account identifier that is associated with a financial account, said certificate identifier being different from said account identifier as required by each of the independent claims 70, 73, and 76-79 has been considered but is not persuasive. Response: The Examiner disagrees with Applicants' that Spector does not disclose "generating a certificate identifier linked to an account identifier that is associated with a financial account, said certificate identifier being different from said account identifier because (1) the claim limitation recites "generating, by a computer, a certificate identifier linked to an account identifier that is associated with a financial account, said certificate identifier being different from said account identifier" in claims 70 and 73; claims 76 and 77 recite "computer means for generating a certificate identifier linked to an account identifier that is associated with a financial account, said certificate identifier being different from said account identifier"; and claims 78 and 79 recites "generating a certificate identifier linked to an account identifier that is associated with a financial account, said certificate identifier being different from said account identifier"; (2) the Specification on page 6, line 10 and page 10, line 3 recites "corresponding" and "a certificate identifier linked to an account identifier" is not found in Applicants' Specification; and (3) it is interpreted that the gift certificate has data printed on the certificate with a certificate identifier on it

as shown in Fig. 2 and the gift certificate paid for by a credit card links the gift certificate identifier to an account identifier because a credit card is issued by a bank or financial institution. Therefore, the certificate identifier is different from the account identifier.

In order to move the application forward, Applicants' must be willing to amend the claims. ("[T]he name of the game is the claim"). See *In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998).

"However, this court has consistently taken the tack that claims yet unpatented are to be given the broadest reasonable interpretation consistent with the specification during the examination of a patent application since the applicant may then amend his claims, the thought being to reduce the possibility that, after the patent is granted, the claims may be interpreted as giving broader coverage than is justified." *In re Prater*, 162 USPQ 541 (CCPA 1969).

"Claims in a pending application should be given their broadest possible interpretation". *In re Pearson*, 181 USPQ 641 (CCPA 1974).

"An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed ...". *In re Zletz* 13 USPQ2d 1320 (Fed. Cir. 1989).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3696

March 12, 2009

Application Number**Application/Control No.**

09/613,361

**Applicant(s)/Patent under
Reexamination**

WALKER ET AL.

Examiner

Ella Colbert

Art Unit

3696